

COMMERCIAL RELATIONS

*Exchanges of notes at Santiago January 6 and February 1, 1938
Entered into force provisionally February 1, 1938; definitively January 5,
1940*

*Extended provisionally by agreement of February 20 and 24, 1939¹
Supplemented by agreement of July 30, 1945,² as modified and extended*

52 Stat. 1479; Executive Agreement Series 119

The American Chargé d'Affaires to the Minister of Foreign Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA
Santiago, January 6, 1938

No. 616

EXCELLENCY:

I have the honor to confirm to Your Excellency the terms of the provisional commercial agreement which our respective Governments have agreed to establish pending the negotiation of a more comprehensive commercial agreement or of a definitive treaty of friendship, commerce and navigation, as follows:

1. The contracting parties agree to concede reciprocally unconditional and unlimited most-favored-nation treatment in all that concerns customs duties and all accessory imposts, the manner of applying duties as well as the rules and formalities to which customs operations can be submitted.

2. In the event that the Government of the United States of America or the Republic of Chile establishes or maintains any form of quantitative restriction or control of the importation or sale of any article in which the other country has an interest, or imposes a lower duty or charge on the importation or sale of a specified quantity of any such article than the duty or charge imposed on importations in excess of such quantity, it shall allot to the other country during any quota period a share of the total quantity of any such article permitted to be imported or sold or permitted to be imported or sold at such lower duty or charge which is equivalent to the proportion of the total importation of such article which such other country supplied during a previous representative period, unless it be mutually agreed to dispense with such allocation.

¹ EAS 144, *post*, p. 590.

² TIAS 1529, *post*, p. 620.

3. a) The Government of Chile confirms its previous declarations and reiterates that it will take the steps necessary to abolish, as soon as its international economic position permits it to do so, the exchange control measures affecting the transfer of payments for articles the growth, produce or manufacture of the United States of America.

b) Until such time the Government of Chile will avoid exchange control measures involving the use of exchange at rates higher than those which would be set by the free supply and demand of the market.

4. It is understood that the advantages now accorded or which may hereafter be accorded by the United States of America, its territories or possessions, the Philippine Islands, or the Panama Canal Zone to one another or to the Republic of Cuba shall be excepted from the operation of this Agreement; and this Agreement shall not apply in respect of advantages now accorded or which may hereafter be accorded by the United States of America or the Republic of Chile to adjacent countries in order to facilitate short frontier traffic.

5. Nothing in this Agreement shall be construed as a limitation of the right of either country to impose on such terms as it may see fit prohibitions or restrictions (1) imposed on moral or humanitarian grounds; (2) designed to protect human, animal or plant health or life; (3) relating to prison made goods; (4) relating to the enforcement of police or revenue laws; or (5) relating to the control of the export or sale for export of arms, ammunition, or implements of war, and, in exceptional circumstances, all other military supplies.

6. The agreement between the United States of America and the Republic of Chile signed September 28, 1931,^a shall terminate, if it will not have already automatically terminated, on the day on which the present agreement comes into force.

7. The present agreement shall continue in force until superseded by a more comprehensive commercial agreement or by a definitive treaty of friendship, commerce and navigation, or until denounced by either country by advance written notice of not less than thirty days.

8. Both Governments undertake immediately to initiate negotiations for the conclusion of a treaty of friendship, commerce and navigation.

Accept, Excellency, the assurances of my highest and most distinguished consideration.

WESLEY FROST
Chargé d'Affaires ad interim

His Excellency

Señor don JOSÉ RAMÓN GUTIÉRREZ ALLIENDE,
Minister for Foreign Affairs,
Santiago.

^a EAS 26, *ante*, p. 562.

The Minister of Foreign Affairs to the American Chargé d'Affaires

[TRANSLATION]

REPUBLIC OF CHILE
MINISTRY FOR FOREIGN AFFAIRS
GG/ad
Commercial Policy Section

No. 97

SANTIAGO, January 6, 1938

MR. CHARGÉ D'AFFAIRES:

I have the honor to confirm to Your Excellency the terms of the provisional commercial agreement which our respective Governments have agreed to establish pending the negotiation of a more comprehensive commercial agreement or of a treaty of friendship, commerce, and navigation, as follows:

[For terms of provisional agreement, see numbered paragraphs in U.S. note, above.]

Accept, Excellency, the assurances of my highest and most distinguished consideration.

J. RAMÓN GUTIÉRREZ

To the Honorable Mr. WESLEY FROST,
Chargé d'Affaires
of the United States of North America,
City.

The American Chargé d'Affaires to the Minister of Foreign Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA
Santiago, February 1, 1938

No. 632

EXCELLENCY:

I have the honor to inform Your Excellency that my understanding of our recent conversations on behalf of the Government of the United States of America and the Government of the Republic of Chile is that the provisional commercial agreement between our two Governments, effected by exchange of notes, signed January 6, 1938, shall come into force definitively thirty days after the date on which it is ratified by the Chilean Congress. Pending ratification by the Chilean Congress, the agreement shall come into force provisionally on February 1, 1938, and unless terminated in accordance with the provisions of numbered Paragraph 7 thereof shall remain in provisional effect until after the expiration of one year, whichever date occurs first. If the agreement has not come into force definitively after the expiration of one year from February 1, 1938, it may within the discretion of both Governments be signed again and by this means be continued in provisional effect.

Accept, Excellency, the renewed assurances of my most distinguished consideration.

WESLEY FROST
Chargé d'Affaires ad interim

His Excellency
Señor don JOSÉ RAMÓN GUTIÉRREZ ALLIENDE,
Minister for Foreign Affairs,
Santiago.

The Minister of Foreign Affairs to the American Chargé d'Affaires

[TRANSLATION]

REPUBLIC OF CHILE
MINISTRY
FOR FOREIGN AFFAIRS

FEBRUARY 1, 1938

MR. CHARGÉ D'AFFAIRES :

I acknowledge receipt of Your Excellency's note No. 632, dated today, in which Your Excellency states that as the result of the recent conversations between the Government of Chile and the Government of the United States of America, you understand that the provisional commercial agreement between our two Governments, effected by exchange of notes signed on January 6, 1938, will definitively go into force 30 days after the date on which it is ratified by the Chilean Congress. Your Excellency adds that while the ratification by the Chilean Congress is pending, the agreement will provisionally go into force on February 1, 1938, and that, unless it is terminated under the provisions of paragraph 7, it will continue to be in provisional effect until after the expiration of 1 year, whichever date occurs first. Your Excellency also states that if the agreement has not definitively gone into force after the expiration of 1 year from February 1, 1938, it may, within the discretion of both Governments, be signed again, and by this means be continued in provisional effect.

In response, I have the honor to express to Your Excellency my agreement with the terms of Your Excellency's note to which I am replying.

J. RAMÓN GUTIÉRREZ

To the Honorable Mr. WESLEY FROST,
Chargé d'Affaires
of the United States of America,
City.